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WILLIAMSPORT, PA

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UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

ROBERT LEON BUCKNER, :  
Plaintiff :  
v. : Civil No. 1:CV-00-1594  
: (Caldwell, J.)  
DR. ANTHONY BUSSANICH, M.D., :  
and DONALD ROMINE, Warden, USP, :  
Defendants :.

BRIEF IN SUPPORT OF  
DEFENDANTS' MOTION FOR LEAVE TO FILE  
A BRIEF IN EXCESS OF FIFTEEN PAGES

Defendants have requested the Court to permit them to exceed the fifteen-page limit as provided in M.D. Pa. Local Rule 7.8 in filing the brief in support of their motion to dismiss. The reasons for this motion are as follows:

1. The complaint is a Bivens action against two Bureau of Prisons' officials employed at FPC Lewisburg. Buckner seeks monetary and injunctive relief based on the Defendants' alleged refusal to provide proper treatment for his Meniere's disease. Specifically, Buckner requests punitive and compensatory damages against the named Defendants and that he immediately resume his medical "regimen" of the drug clonazepam.

2. Although Buckner's complaint was originally dismissed on September 28, 2000, without prejudice, for failure to exhaust administrative remedies, the case was reopened on November 8,

2000, "to explore whether a prisoner can maintain a cause of action after he has perhaps *inadvertently* defaulted on his administrative remedies." (Order dated November 8, 2000, at 2.) (Emphasis added.)

3. On January 12, 2001, Defendants filed a motion to dismiss.

4. It is Defendants' belief that Buckner's failure to exhaust his administrative remedies was not "inadvertent," but rather intentional, and that the undisputed facts establish that Defendants are entitled to dismissal.

5. Because this case presents a question of law not previously before this Court, the Defendants have prepared a comprehensive brief. Defendants are unable to thoroughly brief this issue in less than fifteen pages.

6. Defendants submit that their brief will be no longer than twenty (20) pages in length.

7. Plaintiff will not be prejudiced in granting this motion; indeed, granting this motion should assist plaintiff in understanding Defendants' defenses.